ARC 3456C

UTILITIES DIVISION[199]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)*"b."*

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to Iowa Code sections 17A.4, 474.5, and 476.2, the Utilities Board (Board) gives notice that on November 2, 2017, the Board issued an order in Docket No. RMU-2016-0038, In re: Review of Nonutility Activities – Record Keeping and Cost Allocations Rules [199 IAC Chapter 33], "Order Commencing Rule Making," proposing to update and streamline Chapter 33 of the Board's rules. The order approving this Notice of Intended Action can be found on the Board's Electronic Filing System (EFS) website, efs.iowa.gov, in Docket No. RMU-2016-0038.

To develop the proposed amendments, the Board sought early input from stakeholders. Stakeholder comments were filed by the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, and MidAmerican Energy Company.

The amendments proposed herein are generally intended to update or eliminate rules that are outdated, redundant, or inconsistent or incompatible with statutes and other administrative rules and to clarify provisions that are unclear, vague, or ambiguous. The proposed amendments also include several substantive changes.

The proposed amendment to rule 199—33.2(476) will clarify the definition of "incidental activities" by adding a scale criterion and by replacing an unclear cost-benefit analysis for cost allocation with a practicability standard. The amendment will redefine "net book value" and introduce an objective standard in the definition of "nonproductive work time."

The proposed amendment to rule 199—33.4(476) will clarify provisions on the allocation of costs, among other things, by replacing the terms "utilized" with "involved" and "proportional utilization" with "applicability" (as applied to assets and expenses).

The proposed amendment to rule 199—33.5(476) will clarify the description of changes for which a utility may file specific pages of a cost allocation manual instead of the entire manual. The amendment will clarify provisions requiring a utility to file a description of cost allocation methodology; requiring a utility to explain the basis for allocation of accounts and subaccounts between utility and nonutility operations; requiring a utility to explain the calculation of allocation factors used; and requiring identification of time reporting methods used by each reporting unit.

The proposed amendment to rule 199—33.6(476) will replace ambiguous language with a requirement that a utility or regulated subsidiary pay an affiliate for nonutility services at the same prices the affiliate charges to unrelated entities and will also clarify a provision on the pricing of services provided by a regulated entity to a nonutility affiliate.

The proposed amendment to rule 199—33.7(476) will clarify provisions concerning the allocation of asset costs upon transfer.

Pursuant to Iowa Code section 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before December 12, 2017. The statement should be filed electronically through the Board's EFS. Instructions for making an electronic filing can be found on the EFS website at efs.iowa.gov. Filings shall comply with the format requirements in 199 IAC 2.2(2) and shall clearly state the author's name and address and make specific reference to Docket No. RMU-2016-0038. Paper comments may be filed only with the approval of the Board.

No oral presentation is scheduled at this time. Pursuant to Iowa Code section 17A.4(1)"b," an oral presentation may be requested or the Board on its own motion after reviewing the comments may determine that an oral presentation should be scheduled. Requests for oral presentation should be filed in EFS by December 12, 2017, in Docket No. RMU-2016-0038.

After analysis and review of this rule making, the Board tentatively concludes that the proposed amendments, if adopted, will not have a detrimental effect on employment in Iowa.

These amendments are intended to implement Iowa Code sections 476.2, 476.73, and 546.7.

The following amendments are proposed.

ITEM 1. Amend rule 199—33.2(476) as follows:

199—33.2(476) Definitions. All terms used in this chapter shall be defined as the terms are defined in Iowa Code section 476.72 unless further defined in this chapter.

"Exception time reporting" is when an employee works predominantly in either utility or nonutility operations and only reports time worked in the less predominant area.

"Filing threshold" means that the summation of a utility's revenues recorded in FERC accounts 415 and 417 equals 3 percent of a utility's operating revenues recorded in FERC account 400. The revenues in these accounts will be as recorded in the annual FERC Form 1 for electric and combination utilities and FERC Form 2 for gas utilities.

"Fully distributed cost" is a costing approach that fully allocates all current and embedded costs to determine the revenue contribution of utility and nonutility services.

"Incidental activities" are activities that are so closely related to the provision of utility services and limited in scale that ~~to separate~~ it is impracticable to identify separately the costs of such ~~services would exceed the benefit~~ activities.

"Net book value" means the ~~lower of the~~ original purchase price net of depreciation ~~or any transfer price between affiliates~~.

"Nonproductive work time" is time for which an employee is paid but which is not ~~productively working~~ specifically attributable either to utility or to nonutility operations.

"Positive time reporting" is when productive work time is accounted for and ~~assigned~~ allocated to utility operations or nonutility operations.

"Study time reporting" is when periodic studies are done to determine the amount of productive work time being spent on utility versus nonutility operations.

"Utility operating revenues" are the dollar amounts recorded in FERC account 400.

ITEM 2. Amend subrule 33.3(2) as follows:

33.3(2) *Records to be maintained.* The records maintained for each nonutility service and made available for inspection shall include~~, but not be limited to~~ the following: documents depicting accounts payable and vouchers; purchase orders; time sheets; journal entries; source and supporting documents for all transactions; a description of methods used to allocate revenues, expenses, and investments between utility and nonutility operations, including supporting detail; and copies of all filings required by other state and federal agencies.

ITEM 3. Amend rule 199—33.4(476) as follows:

199—33.4(476) Costing methodology. Costs shall be allocated between utility and nonutility operations using fully distributed cost.

33.4(1) *Cost causation for utility assets.* Each utility shall identify for each asset ~~involved~~ utilized directly or indirectly, in whole or in part, ~~to~~ in the provision of nonutility services: *(a)* the type of asset; *(b)* the use of the asset; *(c)* the ~~applicability~~ proportional utilization of the asset ~~to~~ between utility operations~~,~~ and nonutility operations~~, or both~~; and *(d)* the ~~usage~~ characteristics of the asset that allow proper allocation.

33.4(2) *Cost causation for utility expenses.* Each utility shall identify for each expense account wherein any expense related, directly or indirectly, to the provision of nonutility services is recorded: *(a)* the function causing the expense to be incurred; *(b)* the procedure used in performing the function; *(c)* the ~~applicability~~ proportional utilization of the function ~~to~~ between utility operations~~,~~ and nonutility operations~~, or both~~; and *(d)* the characteristics of the cost that ~~will~~ allow proper ~~assignment~~ allocation.

33.4(3) *Time reporting.* Positive time reporting shall be used whenever possible. In situations where positive time reporting cannot be used, exception time reporting or study time reporting may be used. Nonproductive work time shall be allocated between utility and nonutility operations in proportion to the allocation of productive work time.

ITEM 4. Amend rule 199—33.5(476) as follows:

199—33.5(476) Cost allocation manuals. Every rate-regulated gas or electric public utility equaling or exceeding the filing threshold in any calendar year shall file with the board a cost allocation manual on or before September 1 of the following year. If the utility has not changed its cost allocation manual since the last filing on September 1, the utility shall file a letter with the board to that effect. ~~Refer to subrule 33.5(3) for information on updating cost allocation manuals.~~ In the event the utility has made only minor changes to its manual ~~regarding~~ to reflect new accounts or new affiliates~~,~~ or has modified language, the utility may file only the pages affected~~. The filing shall include~~ together with a cover letter explaining the pages being filed. A utility excused from filing a cost allocation manual for any of the foregoing reasons shall comply with the other requirements of this rule.

33.5(1) *Contents of manuals.* Each cost allocation manual must contain the following information:

a. *Nonutility activities.* A list, the location, and description of all nonutility activities as defined in Iowa Code section 476.72(3).

b. *Incidental activities.* A summary of incidental activities ~~that are incidental to the provision of utility services and minor in size~~ conducted by the utility.

c. *Resource identification.* An identification of the assets and expenses involved directly or indirectly, in whole or in part, ~~to~~ in the provision of nonutility services as identified in subrules 33.4(1) and 33.4(2).

d. ~~*Assignment*~~ *Allocation methodology.* A description of the cost ~~assignment~~ allocation methodology~~. This paragraph provides~~, including an overview, explanation, and justification of the details provided in response to paragraphs *"e"* through *"h~~.~~"* below.

e. ~~*Assignment*~~ *Allocation rationale.* ~~A list showing the cost assignment method for each account. The list shall show for each~~ A statement identifying, for each asset and expense account and subaccount identified in compliance with subrules 33.4(1) and 33.4(2), the basis for ~~assigning~~ allocating costs in the account or subaccount to utility and nonutility operations, including any allocation factor used by the utility for this purpose.

f. *Accounts and records.* A description of each account and record used by the utility for financial record keeping ~~of~~ for nonutility services, including all subaccounts.

g. ~~*Assignment basis*~~ *Allocation factors.* ~~An explanation of each assignment basis. This~~ A paragraph ~~shall contain~~ containing, for each ~~assignment basis contained~~ allocation factor identified in compliance with paragraph *"e,"* ~~a definition of the basis,~~ an explanation of how the allocation factor is calculated, a description of each study and analysis used in developing the allocation factor, and the frequency with which each allocation factor is recalculated.

h. *Time reporting methods.* ~~An explanation of the time reporting methods used. This~~ A paragraph ~~shall indicate~~ indicating the type of time reporting (positive, exception, or study) used for each reporting organization (e.g., executive, residential sales, and external affairs)~~,~~ and providing a description of how the identified type of time reporting is ~~done~~ performed in that reporting organization.

i. *Training.* A description of the training programs used by the utility to implement and maintain its cost allocation process.

j. *Update process.* A description of the procedures used by the utility to: (1) determine when an update is needed; (2) develop the update; and (3) provide the update to the board.

33.5(2) ~~*Filing*~~ *Annual filing and approval of manuals.* The following procedure shall be used for the annual filing and approval of manuals.

a. *Filing.* ~~Utilities~~ A utility meeting the filing threshold ~~requirements~~ shall file a ~~manuals~~ manual on or before September 1 of ~~the~~ each year following ~~the~~ a year during which the utility met the threshold ~~requirement was first met~~.

b. *Notice.* At the time of the initial filing and whenever a manual is updated, each utility shall mail or deliver a written notice to consumer advocate, local trade associations, and customers who have notified the utility in writing of their interest in the ~~filing~~ cost allocation manual. The notice shall state that an objection may be filed with the board within 60 days of the filing of the manual with the board. The utility shall promptly provide copies of the manual upon request.

c. *Objections.* Any interested person may file with the board an objection ~~with the board~~ to a cost allocation manual within 60 days of the filing date.

d. *Docketing.* If the board finds that reasonable grounds exist to investigate the manual, the board will docket the filing as an investigation within 90 days of the date of filing. At the time of docketing, the board will set a procedural schedule which includes a date for an oral presentation and an opportunity to file comments. If the board finds that there is no reason to investigate, the board shall issue an order stating the reasons for the board's decision within 90 days of the date of filing.

e. *Acceptance of manuals.* The board may accept, reject, or modify a utility's manual. However, any board decision is for accounting purposes only and is not binding in any other proceeding.

33.5(3) *Updating of manuals.* All affected sections and pages of a utility's manual shall be updated and filed with the board ~~annually or~~ within 60 days of any of the following conditions:

a. A new nonutility business is ~~added~~ commenced or acquired, or an existing nonutility business is ~~dropped~~ eliminated or divested;

b. An affiliate relationship changes;

c. Operations affecting nonutility businesses change sufficiently to warrant a new allocation method; or

d. Accounting practices change.

33.5(4) *Reporting requirements—accounting tables.* ~~The reporting requirements in this subrule must be accompanied by a signed statement from an officer of the utility and an independent auditor certifying that, for the year completed, the utility has followed its manual and that the results fairly reflect the actual operations of the utility.~~ Companies required to file cost allocation manuals shall ~~file~~ include in their annual reports ~~and in electronic form~~ tables showing for each account identified in compliance with subrules 33.4(1) and 33.4(2) the following: *(a)* the account total; *(b)* the amount ~~assigned~~ allocated to nonutility services; *(c)* the amount ~~assigned~~ allocated to utility services; and *(d)* the value of the allocation factors used to ~~assign~~ allocate costs to utility and nonutility services. Such tables shall be accompanied by a signed statement by an officer of the utility and an independent auditor certifying that, for the year covered by the report, the utility has complied with its cost allocation manual and that the data reported fairly reflect the actual operations of the utility.

ITEM 5. Amend rule 199—33.6(476) as follows:

199—33.6(476) Standards for costing service transfers within a regulated subsidiary or utility.

33.6(1) *Nonutility service provided to regulated subsidiary or utility.* ~~Service shall be priced to the utility's operations~~ The utility or its regulated subsidiary shall pay for a nonutility service provided to it by an affiliate at the price actually charged to nonaffiliates. If no such price is available, the service shall be priced at the lower of fully distributed cost, the price actually charged to affiliates, or ~~a~~ the market price ~~of~~ for comparable services.

33.6(2) *Service provided by the utility to nonutility operations.* ~~Service shall be provided at~~ A utility that provides utility service to a nonutility affiliate shall charge such affiliate the tariffed price~~. If it is not a tariffed service, the service shall be priced at~~ or, if a tariffed price is not available, shall charge the fully distributed cost of the service.

ITEM 6. Amend rule 199—33.7(476) as follows:

199—33.7(476) Standards for costing asset transfers within a regulated subsidiary or utility.

33.7(1) ~~Asset~~ If an asset that is a direct cost of nonutility operations becomes a cost of utility operations~~. The~~, the asset shall be transferred or ~~assigned~~ allocated to utility operations at the lesser of net book value, the price actually charged to affiliates or nonaffiliates, or the market price of comparable assets.

33.7(2) ~~Asset~~ If an asset that is a direct cost of utility operations becomes a cost of nonutility operations~~. The~~, the asset shall be transferred or ~~assigned~~ allocated to the nonutility operations at the greater of net book value, the price actually charged to affiliates or nonaffiliates, or the market price of comparable assets.